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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,932	09/29/2003	Teck Hu	17	1634

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Docket Administrator (Room 3J-219)  
Lucent Technologies Inc.  
101 Crawfords Corner Road  
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EXAMINER	
NGUYEN, KHAI MINH	

ART UNIT	PAPER NUMBER
2687	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/673,932	Applicant(s) HU, TECK	
	Examiner Khai M. Nguyen	Art Unit 2687	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 14-24 is/are rejected.
- 7) ☒ Claim(s) 5 and 7-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's argument with respect to claim 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Trossen et al. (U.S.Pub-20030157899).

Regarding claim 1, Trossen teaches a method of wireless communication with a number of subscribers to a subscription-based service (fig.1-2, paragraph 0030-0031), the method comprising:

assigning at least one service rate to at least one of a plurality of subscription-based service types in response to at least one of channel conditions (paragraph 0002, 0031, 0033-0035), power requirements, service subscription type, desired content, other services and equipment class of each subscriber (paragraph 0002, 0033-0035).

Regarding claim 15, Trossen teaches a method of wireless communication comprising:

receiving a subscription-based service at an assigned service rate (paragraph 0031, 0033-0035), the assigned service rate corresponding with at least one of plurality of service subscription types and at least one of desired content, channel conditions, power requirements, other services and equipment class (paragraph 0002, 0033-0035).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6, 14-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trossen et al. (U.S.Pub-20030157899) in view of Koulakiotis et al. (U.S.Pub-20030104801).

Regarding claim 2, Trossen teaches the method of claim 1, wherein the subscription-based service comprises at least a multicast service (paragraph 0031, 0033-0035),

Trossen fails to specifically disclose the at least one service rate comprises at least one multicast rate, and each of the subscription-based service type comprises at least a multicast service subscription type. However, Koulakiotis teaches the at least one service rate comprises at least one multicast rate (paragraph 0008, 0015-0016), and each of the subscription-based service type comprises at least a multicast service subscription type (paragraph 0006, 0068). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the at least one service rate comprises at least one multicast rate, and each of the subscription-based service type comprises at least a multicast service subscription type as taught by Koulakiotis with Trossen teaching in order to providing a service to a user comprising the steps of defining an area in which the service is available.

Regarding claim 3, Koulakiotis and Trossen further teaches the method of claim 2, wherein the multicast service subscription type comprises at least one of a basic type and a premium type (see Koulakiotis, paragraph 0006).

Regarding claim 4, Koulakiotis and Trossen further teaches the method of claim 3, wherein the least one multicast rate is assigned to each multicast service multicast service subscription type in further response to determining a geographical distribution of the number of multicast service subscribers (see Koulakiotis, paragraph 0007 ) and

determining a subscription distribution of the number of multicast service subscribers (see Koulakiotis, paragraph 0006, 0068).

Regarding claim 6, Koulakiotis and Trossen further teaches the method of claim 4, comprising: multicasting information to each of the multicast service subscribers at each multicast service subscription type's assigned multicast rate (see Koulakiotis, paragraph 0006, 0068).

Regarding claim 14, Koulakiotis and Trossen further teaches the method of claim 2, wherein the other services comprises at least one of voice, HSDPA and HSUPA (see Tresson, paragraph 0003, 0033).

Regarding claim 16, Trossen teaches the method of claim 15,

Trossen fails to specifically disclose the subscription-based service comprises at least a multicast service, the at least one service rate comprises at least one multicast rate, and the service subscription type comprises at least a multicast service subscription type. However, Koulakiotis teaches the subscription-based service comprises at least a multicast service (paragraph 0006), the at least one service rate comprises at least one multicast rate (paragraph 0008, 0015-0016), and the service subscription type comprises at least a multicast service subscription type (paragraph

0006, 0068). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the subscription-based service comprises at least a multicast service, the at least one service rate comprises at least one multicast rate, and the service subscription type comprises at least a multicast service subscription type as taught by Koulakiotis with Trossen teaching in order to providing a service to a user comprising the steps of defining an area in which the service is available.

Regarding claim 17, Koulakiotis and Trossen further teaches the method of claim 16, wherein the assigned multicast rate further corresponds with at least one of a geographical distribution of a number of multicast service subscribers (see Koulakiotis, paragraph 0006, 0032) and a subscription distribution of the number of multicast service subscribers within a cell (see Trossen, paragraph 00).

Regarding claim 18, Koulakiotis and Trossen further teaches the method of claim 16, wherein the multicast service subscription type comprises at least one of a basic type and a premium type (see Koulakiotis, paragraph 0006).

Regarding claim 19, Koulakiotis and Trossen further teaches the method of claim 16, comprising: prioritizing the other services and the multicast service subscription service (see Koulakiotis, fig.3, paragraph 0007, 0029-0030).

Regarding claim 20, Koulakiotis and Trossen further teaches the method of claim 19, comprising: scaling the multicast service subscription types available for assigning in response to a change in demand for the other services (see Koulakiotis, paragraph 0006, 0068).

Regarding claim 21, Koulakiotis and Trossen further teaches the method of claim 20, wherein the step of scaling comprises at least one of dropping and adding support for at least one of the multicast service subscription types (see Koulakiotis, paragraph 0030-0032).

Regarding claim 22, Koulakiotis and Trossen further teaches the method of claim 21, wherein the demand corresponds with at least one of power, channelization codes, and subscription fees (see Trossen, paragraph 0002, 0033-0035).



Regarding claim 23, Koulakiotis and Trossen further teaches the method of claim 19, wherein the other services comprises at least one of voice, HSDPA and HSUPA (see Trossen, paragraph 0003, 0033).

Regarding claim 24, Koulakiotis and Trossen further teaches the method of claim 16, wherein the equipment class corresponds with at least one supporting channelization code (see Trossen, paragraph 0002, 0033-0035).

#### ***Allowable Subject Matter***

4. Claims 5, 7-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Citation of Pertinent Prior Art***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Leyons** (U.S.Pat-6282412) discloses Geographically adaptive portable broadcast receiver.

**Sauter et al.** (U.S.Pub-20040209623) discloses Method of controlling the access to a public land mobile network.

**Chuah et al.** (U.S.Pub-20040184471) discloses Transmission methods for communication systems supporting a multicast mode.

**Settle** (U.S.Pub-20050037706) discloses Multicast control systems and methods for dynamic, adaptive time, bandwidth, frequency, and satellite allocations.

**Xu et al.** (U.S.Pub-20030172165) discloses Charging mechanism for multicasting.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au: 2687

 1/6/2006  
SONNY TRINH  
PRIMARY EXAMINER